



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 337-00
14 June 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show a more favorable type of discharge than the general discharge issued on 12 October 1998. Additionally, he requests that his reenlistment code be changed.

2. The Board, consisting of Messrs. Zsalmán and Brezna, and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 6 June 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Naval Reserve on 21 May 1994. He reported to active duty on 13 June 1994. He later extended his active duty commitment for a period of 16 months.

d. Enlisted performance evaluations for the periods 13 July to 15 December 1996, 16 June to 15 December 1997, and 16 June to 12 October 1998 show an overall individual trait average of 3.19. Although the Board is missing the evaluations from 16 December 1996 to 15 June 1997 and from 16 December 1997 to 15 June 1998,

even if Petitioner had received the lowest possible trait average on these evaluations, the final average for all the evaluations would not have fallen below the minimum requirement of 2.0 for an honorable separation.

e. On 11 September 1998 Petitioner was charged by civil authorities of driving under the influence of alcohol or drugs and possession of marijuana.

f. On 12 October 1998 Petitioner was released from active duty under honorable conditions by reason of expiration of active obligated service. At that time he was assigned a reenlistment code of RE-4.

g. On 6 November 1998 the United States Magistrate of San Diego dismissed both of the foregoing civil charges.

h. An individual separated at the expiration of obligated service must receive a characterization of honorable unless the final mark average warrants a characterization of under honorable conditions. A RE-1 reenlistment code means that an individual is recommended and eligible, in all respects, to be reenlisted. A RE-4 reenlistment code means that an individual is not recommended for reenlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board concludes that his general discharge should be recharacterized to honorable since his final overall trait average was above the required 2.0 average for an honorable discharge. The Board also believes that Petitioner had an unfortunate incident that marred what otherwise could be termed as an excellent tour of duty of more than four years. Since the civil charges were dismissed, the assignment of a RE-4 reenlistment code appears to be unjust. Accordingly, the Board concludes that in view that the charges were dropped by civil authorities, Petitioner's reenlistment code should be changed to RE-1.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable separation and transferred to the Naval Reserve on 12 October 1998 vice the under honorable conditions separation.

b. That the record be further corrected by changing the RE-4

reenlistment code to RE-1.

c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

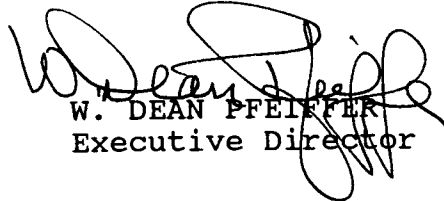
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director